

NON-CONFIDENTIAL VERSION

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

RE: DPUC DEVELOPMENT AND	:	DOCKET NO. 06-01-08PH02
REVIEW OF STANDARD	:	
SERVICE AND SUPPLIER OF	:	
LAST RESORT SERVICE	:	SEPTEMBER 13, 2006

**THE CONNECTICUT LIGHT AND POWER COMPANY'S
PROCUREMENT PROCESS AND RESULTS
FOR STANDARD SERVICE:
COMMENTS OF THE OFFICE OF CONSUMER COUNSEL**

I. INTRODUCTION

Summary

1. CL&P's conduct of its procurement effort for Standard Service (SS) and Last Resort Service (LRS) was fully satisfactory. CL&P's performance met the applicable statutory standards and the DPUC's basic criteria.
2. The prices CL&P obtained for its SS slices appear to reflect current conditions in the wholesale market, judging by OCC's target price and otherwise.
3. OCC, having reviewed the joint CL&P/Levitan recommendations on what SS bids to accept, believes the DPUC should accept those recommendations as filed.
4. CL&P has been cooperative and open with OCC throughout this process. Levitan generally worked well with OCC.
5. The DPUC should not have changed fundamental SS procurement parameters at the last minute.

The Office of Consumer Counsel ("OCC") is a participant in this docket, which the Department of Public Utility Control ("DPUC" or "Department") established on its own initiative.

The initial phase of this docket approved a plan under which the state's two electric distribution companies, The Connecticut Light and Power Company ("CL&P" or "the Company") and The United Illuminating Company ("UI"), are to procure electric generation service contracts for two purposes. The first such purpose is to provide standard service under Connecticut General Statutes ("CGS") § 16-244c ("Standard Service" or "SS"), and the second such purpose is to provide supplier of last resort service under CGS § 16-244e ("Last Resort Service" or "LRS"). Under Public Act 03-135, An Act Concerning Revisions to the Electric Restructuring Legislation (the "Revised Restructuring Act" or "Act"), CL&P and UI will be required to offer both Standard Service and Last Resort Service to (separate) groups of customers from January 1, 2007 onward.

The DPUC issued its initial decision (the "Initial SS/LRS Procurement Decision" or "Initial Decision") in this docket on June 21, 2006. The Initial Decision (pp. 6-7) says that OCC should be afforded an opportunity to directly and fully participate in all aspects of the SS/LRS procurement process, for both distribution companies, and that OCC should have full access to all bidder information, subject to appropriate confidentiality provisions.

This invitation to OCC was something new in DPUC structuring of recent power procurements by CL&P or UI. For instance, during the Transitional Standard Offer procurements (2003-2005), OCC was essentially excluded from the process. OCC appreciates the DPUC's change of position on this issue, so vital to the state's electric ratepayers.

OCC, having reviewed the DPUC's Initial Decision, informed the DPUC on June 22, 2006 that it intended to accept this invitation to participate in the SS/LRS procurement process, for both distribution companies. The first step in that OCC participation was our agency's attendance at a June 23, 2006 "kick-off" meeting inside the DPUC, in which representatives of Levitan & Associates, Inc. ("Levitan"), the Department's independent consultant, participated. Since then, OCC and its own chosen consultant have spent hundreds of person-hours on this effort (as will be recounted below, at least in some measure).¹

OCC herewith submits its Comments on CL&P's Procurement Process and Results in this docket.

II. DISCUSSION

A. CL&P's Conduct of this Procurement was Fully Satisfactory.

Distribution company procurement of both Standard Service and Last Resort Service must meet a number of specific standards. In part, these standards are set out in the statute. In part, these standards have been established by the DPUC.

The Statutory Standards

The Revised Restructuring Act sets out the procurement process for Standard Service in considerable detail, in CGS §§ 16-244c(c)(3), 16-244c(c)(4) and 16-244c(c)(5). The

¹ The DPUC's Initial Decision states, erroneously, that Levitan has been retained by both the Department and OCC. OCC has twice (7/10/06; 7/20/06) asked the DPUC to correct this clerical error. Inexplicably, the DPUC has twice (7/18/06; 8/18/06) declined to do so.

DPUC must approve, for both distribution companies, a procurement plan that meets multiple standards. Among the standards that the Standard Service procurement process and the resulting “portfolio of [Standard Service] contracts” must meet are:

- (a) Distribution company mitigation of variation in the price of Standard Service;
- (b) Sufficiency to meet projected Standard Service load;
- (c) An overlapping pattern most likely to produce just, reasonable, and reasonably stable retail rates, while reflecting wholesale market prices over time;
- (d) Inviting competition, while guarding against favoritism, extravagance and fraud;
- (e) Securing reliable supply while avoiding unusual or excessive pricing;
- (f) Minimum six-month terms, though shorter terms are allowable under strict conditions prescribed by DPUC;
- (g) Bids from generation affiliates of distribution companies are allowed, with certain restrictions.

At the same time, the Revised Restructuring Act says very little about the procurement process for Last Resort Service (which CL&P will attempt to acquire tomorrow). The Act does carefully define the (small) group of customers eligible for this service, and limits distribution-company risks related to customer switching (by setting a minimum one-year term on LRS for customers previously on competitive supply).

However, the Act sets out only two requirements regarding the energy supply for Last Resort Service. First, the distribution companies must procure such electricity. Second, the DPUC must “determine a price for such customers that reflects the full cost of providing the electricity on a monthly basis.”

While OCC has worked closely with Levitan in recent weeks, our agency retained its own consultant, per CGS § 16-18a, for the recent work in this docket.

The DPUC's Standards

The Initial SS/LRS Procurement Decision (pp. 3-4) provides that distribution company procurement of both Standard Service and Last Resort Service is subject to a number of basic criteria, specifically:

- (a) The process must be fair and impartial to all participants.
- (b) The existing Code of Conduct (relating to distribution companies and generation affiliates) must be strictly observed.
- (c) The procurement effort must notify as broad a group of potential bidders as is practicable, through invitations issued in several available formats.
- (d) The procurement should cost-effectively promote price consistency/stability and minimization of revenue requirements. Criteria for evaluating competing bids must be well-defined, measurable and available to the suppliers in an open and fair manner.
- (e) Potential bidders should have clear opportunities for questions. Bidder access to relevant data should be complete, non-discriminatory and timely, so that the number of bidder responses is maximized.
- (f) The resulting contracts should not limit the pursuit, by multiple entities, of conservation or demand response initiatives.
- (g) Procurement participation should not be limited to bidders with their own fleet of power plants, but should include bidders that can offer supply by managing forward contracts and hedging instruments.

OCC's Procurement Participation

OCC, as the representative of electric ratepayers, participated closely in recent weeks in every aspect of the CL&P procurement process for Standard Service and Last Resort Service.

Special Note

By design, CL&P separated the time for its receipt of final bids for SS and LRS by two days. Final SS bids for this round were due September 12, 2006, and final LRS bids are due on September 14, 2006.

This portion of the OCC Comments discusses the (overlapping) work on SS/LRS procurement that took place before September 12, 2006, and also the SS-related work on September 12.

OCC intends to participate in CL&P's LRS final bid day activities, scheduled at the Company's offices for September 14, 2006. Soon thereafter, OCC intends to file with the DPUC an appropriate Addendum to these Comments.

1. OCC staff and/or consultants attended approximately 36 meetings with CL&P and Levitan staff in person or by phone, including:
 - Meetings and teleconferences of CL&P staff, Levitan, and OCC on July 5, 11, 13, 18, 20, 21, 25, and 27; August 1, 3, 8, 10, 15, 18, 21, 23, 24, and 25; and September 1, 5, 6, 7, 8, and 11.
 - CL&P calls with individual bidders, monitored by Levitan and OCC: one or more calls on each of the following days: August 21, 22, 23, and August 24, September 4 and 11.
2. OCC staff and consultants reviewed the following documents, each in several iterations, and proposed amendments and corrections:

- Request for Proposals for Standard Service and Supplier of Last Resort Service
 - Standard Service and Supplier of Last Resort Service Wholesale Sales Agreement
 - Service Attachments
 - Bidding worksheets
 - CL&P's final communications to bidders
3. OCC consultants prepared mock bids in parallel with CL&P and Levitan staff, participated in the comparison of alternatives and the final selections of the mock bids, and reviewed Levitan's results.
 4. OCC consultants reviewed draft responses to each of the bidder questions, and commented on approximately 35 such responses, sometimes in multiple rounds.
 5. OCC consultants drafted, reviewed and suggested revisions to bid-evaluation tools, including linear-programming bid-choice models and computations of benchmark prices and congestion differentials.
 6. OCC was involved in essentially all discussions of employing the barrier-put option.
 7. OCC staff and consultants were present at CL&P's offices on bid day [September 12, 2006] from 8:00 a.m., before the first bids were received at 10 AM, until well after the selection of bidders was made, and were involved in all aspects of the review of the bids and selection of the lowest-cost combination.

OCC's comprehensive participation in the CL&P procurement effort, just described, has given our agency a sound basis upon which to evaluate the extent to which that CL&P effort meets the standards set out in the applicable statute and in the Initial Decision.

CL&P's Procurement Effort

1. The development of the request for proposals ("RFP"), contracts, historical and projected data, questions, and other bid documents was undertaken seriously, with attention to detail, and in a commercially reasonable manner. The Company's management and technical staff, and its attorneys, along with Levitan staff and OCC consultants, reviewed and edited multiple versions of the RFP and contracts, prior to release of the RFP. The same parties completed additional rounds of RFP edits between the RFP release and bid date, in response to internal reviews, bidder questions, and discussions with bidders. This process culminated in the development of a final contract for each bidder, reflecting the specific issues of each bidder.

OCC believes that the development of the bid documents met the Department's standards and good utility practice. In particular, the RFP was consistent with the requirement in the Department's standard (d) that "Criteria for evaluating competing bids must be well-defined, measurable and available to the suppliers in an open and fair manner."

2. Notification of the RFP was widely distributed through ISO-NE to all the entities that would be eligible to participate in the procurement. The RFP itself was posted on the CL&P web site.

OCC believes that the distribution of the RFP meets the Department's standard (c), above.

3. The Company responded to questions, concerns and suggestions from Levitan and OCC seriously and cooperatively.

OCC believes that CL&P fulfilled its obligations with respect to cooperation with the Department's consultant and the OCC.

4. The Company responded to questions, requests and suggestions from potential bidders in a serious and diligent manner. The RFP web page clearly explained how potential bidders could pose questions to CL&P. Each question was forwarded to Levitan and OCC, as were draft responses prior to posting of the responses. The Company

considered, and often incorporated, suggested improvements in responses proposed by Levitan and OCC. The Company continued to respond to questions after the formal deadline for questions. The Company solicited comments from potential bidders regarding the draft contract; with input from Levitan and OCC, revised the standard contract to reflect many of those comments; held teleconferences with each bidder to discuss remaining contract issues; and (again with input from Levitan and OCC) made additional changes to the contracts, both generically and to reflect bidder-specific issues. Following the Department's rejection of one tranche of the contracts recommended by UI, Levitan and OCC, CL&P conducted additional calls and modified language in the Service Attachments to deal with bidder concerns.

OCC believes that this process meets the Department's standards (a) and (e), above.

5. One significant development in the development of the bid documents was the amendment of the draft contract to reduce risks to bidders of delay in the DPUC's review process. The concern was that a selected bidder would have to purchase hedges to protect its position for up to ten days, and that the DPUC might fail to approve the contract within that period, potentially leaving the bidder with the costs of the hedges and no actual sale of power. To reduce the bidders' risk and the anticipated resulting cost to customers, CL&P agreed to assume the cost of the hedges from the time that the Department might reasonably be expected to act until the date at which the Department rejected the contracts or the ten-day approval period lapsed. This approach was initially developed by UI; CL&P adapted and clarified the UI language, and further clarified the language in response to bidder anxiety following the Department's rejection of one of the UI bids.

OCC believes that CL&P's willingness to accept this small risk is likely to reduce costs to customers, especially in light of the Department's rejection of the UI tranche, and commends CL&P for this decision.

6. The Company, Levitan and OCC worked well together in developing and testing the bid spreadsheets. The bid spreadsheets went through several iterations, as well as testing by CL&P, Levitan and OCC and a round of characteristic bids by potential bidders, to ensure that:

- The bid prices would be unambiguous.
- Any mutually-exclusive bids would be clearly specified, which required careful wording and clear bid designations.
- The bid prices could be exported easily to the evaluation worksheets, to allow the expeditious completion of the bid evaluation and selection of suppliers, to minimize bidder risks and costs.

The resulting bid sheets, reflecting considerable effort by CL&P, included several consistency-checking features to ensure that bidders presented their bids in a clear and unambiguous manner.

The Company also developed some utility programs that were very helpful in processing the bid prices and constraints from many bidders into a single file for further analysis. These tools accelerated the evaluations on bid day.

OCC believes that the bid forms and supporting tools were well-designed to support the procurement and selection process, promoting minimization of revenue requirements, while clearly showing potential suppliers the “criteria for evaluating competing bids,” as required by Department standard (d).

7. The Company, Levitan and OCC generally worked well together in developing and testing the linear-programming (“LP”) bid-choice models. OCC’s consultant developed a conceptual model to allow CL&P to compare bids for single blocks of power with bids for multiple periods. Levitan and CL&P constructed comprehensive LP models, capable of handling the numerous bids expected, with multiple constraints.

OCC believes that the LP modeling approach was prudently pursued by CL&P to promote price stability and minimization of revenue requirements, as required by Department standard (d).

8. Levitan, OCC and CL&P developed largely independent estimates of the prices we would expect suppliers to bid for the various terms, reflecting forward energy prices, congestion, load shape, ISO-NE capacity-pricing rules, historical and expected uplift costs and ancillary prices, renewable-energy requirements and prices, distribution losses

and an estimate of supplier mark-up for profit and risk. These values (called “proxy prices” by Levitan, and “target prices” by OCC) allowed the parties to determine whether bids were unexpectedly low, in which case the Company might take more SS supply than planned, or unexpectedly high, in which case the Company might not take all the slices originally planned. Levitan and the Company did not share with OCC as much detail supporting their analyses as OCC would have preferred, but the parties developed a general understanding of each others’ approaches.

Ultimately, OCC believes that the resulting proxy prices are reasonable for the purposes of this procurement—namely, to determine whether the winning bids meet the statutory requirement of just and reasonable retail rates, reflecting wholesale market prices and avoiding unusual or excessive pricing, as well as the Department’s requirement of minimizing revenue requirements.

9. The Company selected the schedule for the procurement, which comprised 41 days for this process, from the release of the RFP August 2 to receipt of final SS bids September 12. Considering the experience of CL&P’s staff with power procurement and development of a standard contract over the last three years, both for CL&P and its affiliate Western Massachusetts Electric, this time period accommodated the expected activities: responding to bidder questions; revision of contracts; and development of the bid worksheet, proxy prices, and the bid-selection models. Until the last week or so, CL&P’s schedule worked smoothly. Only after the Department rejected a signed UI standard-service contract did the CL&P schedule become hectic. This was because the Department’s actions re UI required extensive last-minute efforts to deal with bidder concerns.
10. The test run of the bid-selection models using mock bids was helpful in improving the models and communication with bidders. The review of the characteristic bids was similarly helpful in identifying potential problems in bid interpretation.

OCC believes that CL&P and Levitan used the mock-bid and characteristic-bid processes well, to support compliance with the Department’s standard (d), above.

11. On bid day, CL&P provided separate rooms for Levitan and OCC teams, in addition to CL&P's evaluation team, with internet access. The Company received the raw bids and copied them to the on-site Levitan and OCC teams.

OCC believes that CL&P and Levitan were well prepared for bid day.

OCC's Evaluation of the CL&P Effort

Summarizing the above, OCC believes that CL&P's conduct of its Standard Service and Last Resort Service procurement was **fully satisfactory**.

The DPUC's Initial Decision (p. 7) says that OCC should comment on "any prudence issues" arising during the procurement process. OCC did not observe any CL&P actions that, on their face, raise important prudence issues or appear to have directly resulted in excess costs to customers.

B. The Prices CL&P Obtained Appear to Reflect Current Market Conditions

Within the limits of our available resources, OCC undertook to independently assess the results of CL&P's current SS/LRS procurement effort.

Confidential Appendix A describes in detail OCC's assessment of bidder interest and participation in the procurement process. OCC believes that the level of bidder activity was adequate to support DPUC approval of the recommended contracts.

As discussed above, the parties developed estimates of the bid prices that they would expect. These estimates reflected (in varying ways for the three parties):

- Current market prices for forward contracts for on-peak (and in the case of OCC, off-peak) power at the Massachusetts Hub.
- Historical or modeled effects of CL&P's SS load shape on the cost of energy to serve that load.
- Historical or modeled congestion between the Hub and Connecticut.
- Historical or modeled estimates of uplift.
- Capacity costs at the level implied by the FERC settlement and ISO load and capacity forecasts.
- Historical levels of ancillary services, adjusted for the ISO's new Locational Forward Reserve Market.
- The costs of meeting the Renewable Portfolio Standard, given market prices, combined with statutory and regulatory requirements and deficiency charges.
- Distribution line losses.
- An allowance for costs not readily observable in the market, including the risks of load and price variation, and costs of financial guarantees, transactions, and operations.

The specifics of OCC's approach to the development of such target prices are not further detailed here. However, we note that Confidential Appendix B to OCC's filing of August 30 in this docket describes OCC's analysis of expected prices for UI's standard-service supply. While OCC and Levitan used different and updated analyses to evaluate the

final bids that CL&P received two weeks later, the general categories of costs were the same, and the approaches were similar.

Based on our use of these analytic tools, OCC concluded that the prices CL&P obtained for Standard Service, for the slices the company accepted on September 12, 2006, reflect current wholesale market conditions.

C. The DPUC Should Accept the Joint CL&P/Levitan Recommendations

At the close of price day, September 12, 2006, OCC was able to review and evaluate the Joint CL&P/Levitan Report being filed contemporaneously with these OCC Comments.

That report consists of two documents, as follows:

- Joint Recommendation of The Connecticut Light and Power Company and Levitan and Associates Inc., a document approximately 9 pages long, exclusive of attachments.
- Joint Affidavit of Ellen G. Cool and Richard L. Levitan, Levitan and Associates. Inc., a document approximately 10 pages long.

OCC also has specifically reviewed the attachments to the aforementioned documents (some of which CL&P is filing as confidential).

The Initial Decision (on pp. 8-9) sets out the requirements for the Levitan-CL&P joint report. Those items are:

- (a) overview of all bids, plus a joint recommendation as to the preferred bidders;
- (b) projected system average rates resulting from the procurement;
- (c) redacted bids, with a motion for protected treatment;
- (d) natural gas and electric futures prices on the date of the procurement;
- (e) attestations from distribution company/Levitan that the procurement met the “basic criteria” set out in the Decision.

- (f) “conclusions and supporting reasoning” in any situations where discretion was exercised.
- (g) the overview mentioned above should be filed as a “compilation”, with appropriate measures to keep it out of FOIA's reach, and should not include the names of the preferred bidders.

OCC believes that CL&P and Levitan have complied adequately with these requirements of the Initial Decision.

Given the analysis presented in Sections II-A and II-B of these Comments, supra, OCC states the following. We believe that **the DPUC should accept the CL&P-Levitan recommendations, in full, as filed.**

D. The DPUC Should Not Have Changed Fundamental Procurement Parameters At the Last Minute.

UI completed its initial SS/LRS procurement on August 29, 2006. The next day, UI, Levitan and OCC, acting unanimously, asked the DPUC to accept contracts for several SS tranches for various time periods during 2007, 2008 and 2009. However, the DPUC declined to accept this joint expert recommendation. Instead, the DPUC rejected UI's actual procurement of one of these recommended tranches. The DPUC's 8/31/06 decision² offered as its essential reason for this rejection the contention that it was important for UI to begin the laddering process promptly.

² While this DPUC decision was clarified on 9/1/06, that clarification was technical, not changing the agency's reasoning as presented in the 8/31/06 text.

This UI-centered regulatory decision took place during the final days before CL&P's own initial SS procurement effort was to be completed. CL&P responded promptly to this DPUC decision regarding UI's SS procurement. In a 9/5/06 letter to the DPUC, the Company asked for the opportunity to buy less than all of its SS power for the early part of 2007 in the solicitation scheduled for completion on 9/12/06. On 9/11/06, the DPUC granted this Company request.

The DPUC's 9/11/06 ruling specifically stated that the agency was allowing CL&P to ignore the October 1, 2006 deadline (to establish the 2007 SS retail rates) found in the statute. The DPUC now stated that CL&P should procure SS power under a time frame allowing those retail rates to be established by December 1, 2006.

In our 8/30/06 Comments in this docket, OCC pointed out that the DPUC's delay in issuing its Initial Decision in this docket adversely affected the procurement process for both UI and CL&P. This is because that DPUC delay virtually eliminated the possibility of company issuance of multiple RFPs before the October 1, 2006 statutory deadline. And, as has been seen, both distribution companies actually have completed only one SS solicitation in time to meet this 10/1/06 deadline.

The DPUC's recent actions, described above, indirectly added two months to the period of time available for UI and CL&P to complete their initial SS procurements for 2007 (i.e., by moving the stated deadline for establishing the SS retail rates from 10/1/06 to 12/1/06).

However, this change does not mitigate the concerns OCC put forward in our 8/30/06 Comments. This is because of when and how the DPUC so acted.

When the DPUC Acted. The DPUC did not extend the 10/1/06 deadline [as it now has done] in its Initial Decision last June. Such an agency decision, had it occurred, would have allowed both UI and CL&P a somewhat better opportunity to engage in multiple, orderly RFPs in this initial round of SS procurement, and thus to begin laddering for 2007 at this time. However, even that opportunity (which basically would have amounted to creation of a single five-month period for two 2007-related RFPs) still would not have been as complete as is desirable. For instance, the Initial Decision (at pp. 12-14) approved a CL&P approach to laddering that contemplates semi-annual solicitations, and a UI approach to laddering that contemplates annual solicitations.

How the DPUC Acted. Further, in this instance, the DPUC acted in a manner that was indirect and initially cryptic. The agency's UI decision did not, by its terms, apply to CL&P; nor did the decision clearly annunciate the DPUC's position regarding the choice between laddering and compliance with the statutory deadline. In response to this ambiguity, CL&P filed its 9/5/06 motion with the DPUC. Only on 9/11/06, the day before price day at CL&P, did DPUC finally clarify its directions to CL&P.

The DPUC should not have imposed a fresh laddering requirement, for this initial SS procurement effort, on either UI or CL&P following its issuance of the Initial Decision last June. OCC has closely observed the CL&P SS procurement effort, as we document earlier in

these Comments. The DPUC's rejection of one UI SS tranche caused great concern among CL&P's potential bidders in the final days before the Company's SS bids were due. These bidder concerns made clear that this DPUC action might drive up the final bid prices CL&P received, or reduce the number of final bidders, or both.

One concrete indication of an adverse effect of this type took place shortly before CL&P's price day. At that time, an experienced supplier that has competed successfully in similar solicitations dropped out of the CL&P process. As it did so, this entity informed CL&P, in writing, that the DPUC's recent rejection of the UI SS tranche had "created havoc" among potential suppliers, since they had no basis upon which to judge the risk of DPUC actions.

In sum, the DPUC's rejection of part of the UI-recommended SS auction results had an adverse effect on the conduct of the CL&P auction for Standard Service. CL&P worked very hard to allay bidder concerns and to minimize that effect. However, these problems could have been avoided had the DPUC acted more reasonably, and in a more timely manner.

III. CONCLUSION

OCC respectfully urges the Department to take full account of our agency's views as expressed above, and looks forward to further participation in this important proceeding.

Respectfully submitted,

MARY J. HEALEY
CONSUMER COUNSEL

By: _____
Bruce C. Johnson
Principal Attorney

CERTIFICATION

I hereby certify that a copy of the foregoing has been mailed and/or hand-delivered to all known parties and intervenors of record this 13th of September 2006.

Bruce C. Johnson
Commissioner of the Superior Court